74

Adam M. Pryce

1   Adam M. Pryce
2 on some of the questions Mr. Haywoode just
3 asked you.
4   A. Yes.
5   Q. Can you identify any statement or
6 section of GAGAS, GAAS or GAAP that requires
7 a letter to go from the auditor to the
8 management regarding adjusting journal
9 entries?
10   A. Well, it's normal practice. If you
11 look on any requirement that the auditors
12 are supposed to go, that is one of the
13 requirements that this is the practice in the
14 accounting profession.
15   Q. Are you testifying that it is a
16 practice in the accounting profession for a
17 letter to be sent from the accountants to
18 management for the adjusting proposed journal
19 entries?
20   A. Let me say this. Let me go back.
21   There are two letters that the
22 accountants prepare at the end of an audit.
23 One is called a management representation
24 letter.
25   That letter is supposed to be on the

75

1   Adam M. Pryce
2 client's letterhead, telling the CPA that they
3 have kept proper accounting records, they have
4 complied with the law, they have done that,
5 and that has to be on the client's letterhead,
6 similar with this proposed journal entry.
7 That has to be on the client's letterhead,
8 saying we approved the journal entries.
9 Because these are proposed, the auditors can
10 only propose. They are not supposed to
11 make the journal entries and book them like
12 that.
13   Q. Who made the journal entries for the
14 partnerships?
15   A. Who made the journal entries? We
16 saw a number of journal entries made by the
17 auditor.
18   Q. How do you know they were made by
19 the auditor?
20   A. Well, we saw the auditors on them.
21 They have the auditors' letterhead here.
22   Q. Were you present at the deposition
23 of Mr. Jennings?
24   A. Yes.
25   Q. Were you present at the depositon of

76

1   Adam M. Pryce
2 Ron Dawley?
3   A. Yes.
4   Q. Did you hear testimony at those
5 depositions that Ron Dawley was the individual
6 who physically made the journal entries?
7   MR. HAYWOODE: Objection to leading
8   the witness.
9   A. No.
10   Q. If you were told that Mr. Dawley
11 would take the adjusting journal entries from
12 a sheet provided by the accountant, sit at a
13 computer, make the journal entries he thought
14 were appropriate, would that satisfy you that
15 management was making the adjusting journal
16 entries?
17   MR. HAYWOODE: Objection.
18   Calls for a hypothetical.
19   A. Let me explain --
20   MR. HAYWOODE: Calls for testimony
21   concerning facts not in evidence.
22   A. When you do an audit, there are
23 matters that the client did not see and you go
24 there, and following GAAP, GAAS, you propose
25 entries.

77

1   Adam M. Pryce
2   If you propose -- these are called
3 proposed. Then they have to be approved by
4 the client.
5   You have no authority. That is
6 management's decision.
7   You have no authority to book
8 something in the client's books without
9 getting the approval of the client.
10   Q. Do you have any knowledge that
11 anyone at Marks Paneth & Shron entered
12 anything into the books of any of these
13 partnerships?
14   A. When we look on the financial
15 statement of Marks Paneth & Shron and compare
16 to Dalton, there is a wide gap between the
17 figures.
18   One of the requirements of the
19 auditor, when you start an audit, you need to
20 audit the previous balance to make sure the
21 client books them.
22   We don't do that.
23   We see, for example, like Seavey
24 loan coming from way back in the books and no
25 adjustment was made, that 29,000, no

78

1   Adam M. Pryce
2   adjustment was made in the books and that was
3   carrying.
4   We saw it in 2005. So it was coming
5   back before 2005.
6   MR. KELLY: Can you read back my
7   question, please?
8   (Whereupon, the requested portion
9   was read back by the reporter.)
10   A. The only evidence I have is the
11 financial statement differs from Dalton.
12   Q. Can you identify any professional
13 standard that sets the normal requirements or
14 the normal amount of adjusting journal entries
15 at five or ten?
16   A. Well, this is the normal practice.
17   Q. Can you point to any professional
18 standard or any professional literature that
19 sets the normal practice at five or ten?
20   A. No. For example, the engagement
21 letter, that is not in GAAP or GAAS, but is
22 recommended.
23   Q. Can you identify any recomendation
24 in any professional literature that sets the
25 normal adjusting journal entries at five or

79

1   Adam M. Pryce
2   ten?
3   A. No, no. That's normal practice.
4   I'm giving example, like letter of engagement
5   letter, it is not in GAAP but it's
6   recommended.
7   Q. When you say it's normal practice,
8   that's based on your experience?
9   A. Normal audit practice.
10   Q. Do you have any experience with the
11 number of adjusting journal entries in
12 partnerships involved in HUD-regulated housing
13 projects?
14   A. I don't think this has to do with
15 HUD-regulated. Whether it's HUD-regulated or
16 not, excessive journal entries, over 21, it's
17 excessive.
18   It says that there is internal
19 control deficiency.
20   Q. Can you point me to --
21   A. (Continuing) Which has to be
22 reported, according to SAS 112.
23   Q. Can you point me to any professional
24 standard that sets a standard of the number of
25 adjusting journal entries as being excessive?

80

1   Adam M. Pryce
2   A. No. It's a practice. It's a normal
3   practice that it's about five or ten journal
4   entries.
5   As I said, the engagement letter is
6   not in GAAS, but it's recommended.
7   You don't have to see, but it's
8   normal practice in the profession.
9   Q. What recommends it?
10   A. AICPA recommends it, New York State
11 Society of CPAs recommends it.
12   AICPA recommend it.
13   Q. Can you point me to some
14 recommendation from New York State Society of
15 CPAs or AICPA, the Society of CPAs?
16   A. No.
17   MR. TRAUB: You are talking over
18   each other.
19   MR. HAYWOODE: This is not a CPA
20   exam this morning.
21   A. This is my field. I've been in it a
22 long time.
23   MR. HAYWOODE: All right. So go
24   ahead.
25   A. I am defending my work here what I

81

1   Adam M. Pryce
2   do.
3   MR. HAYWOODE: Go ahead.
4   MR. KELLY: Can you read my question
5   back, please?
6   THE WITNESS: Yes.
7   MR. HAYWOODE: You were asking for
8   any regulations. I want you to cite the
9   rule right now.
10   (Whereupon, the requested portion
11   was read back by the reporter.)
12   A. Recommendation? Have proper working
13 papers so that one can follow your conclusion,
14 the opinion. Keep proper working papers,
15 follow GAAP, follow GAAS. These are all
16 recommendation.
17   Q. Wouldn't you agree that the number
18 of adjusting journal entries is less important
19 than the actual character of those adjusting
20 journal entries?
21   A. Let me say something.
22   SAS 112 that was issued November 15,
23 2006, exact date, that applies to audits after
24 that date, requires that you report control
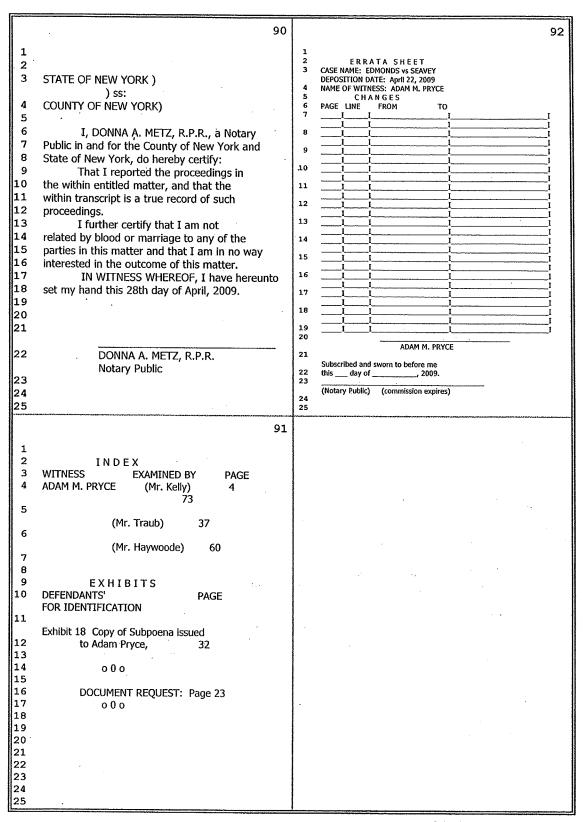25 deficiency, internal control deficiency.

82

1   Adam M. Pryce
2   And if you go to auditing the books,
3 there are so many figures and some large
4 figures, because we have materiality levels --
5   MR. TRAUB: Stop.
6   MR. HAYWOODE: Stop. You have an
7 accent.
8   A.   Materiality levels.
9   MR. TRAUB: Materiality levels.
10   THE WITNESS: I go too fast.
11   A.   Based on material levels, when we
12 examine transactions, accounting transactions,
13 based on that, if it's above material levels,
14 we test those. We see many of those journal
15 entries were not only to convert the books
16 from cash basis to accrual basis, but there
17 were a number of incorrect entries, that those
18 entries are made that Paneth had to make, and
19 that's a question of independence.
20   Q.   Again, you said Paneth had to make.
21   Do you mean that Paneth went to the
22 books and made those entries themselves?
23   MR. HAYWOODE: Objection. That's
24   not the witness's testimony.
25   A.   I cannot determine auditor judgment

83

1   Adam M. Pryce
2 because Paneth determines their judgment based
3 on their testing. I am not here to explain
4 that, but what I see, I can only talk about
5 what I test and what I see.
6   Q.   Maybe my question wasn't clear.
7   When you say Paneth made the
8 entries --
9   A.   Proposed journal entries.
10   Q.   -- do you mean that someone from
11 Marks Paneth & Shron went to the offices
12 of Dalton and made the entry in Dalton's
13 books?
14   A.   They produced the documentation of
15 entries that they made to support their
16 financial statements, and these were not
17 booked by Dalton.
18   Q.   So those entries were not put on the
19 books of Dalton?
20   A.   They were not put on by Dalton, so
21 that suggestss that Dalton did not approve
22 them.
23   Q.   That suggests that Dalton did not
24 approve those journal entries or looked at
25 them -- let me withdraw that.

84

1   Adam M. Pryce
2   So that suggests that Dalton looked
3 at those journal entries and made a decision?
4   A.   Dalton -- I can't talk for that,
5 what Dalton makes.
6   Q.   Okay.
7   A.   I can't tell you. I don't know what
8 was in Dalton's mind. I can't tell you what
9 Dalton made.
10   If that's what you want me to tell
11 you, but I can't.
12   Q.   Would it be acceptable under GAGAS
13 for the client to, even though the auditor
14 made the adjusting journal entries, to accept
15 responsibility for those journal entries
16 without impairing the independence of the
17 auditor?
18   A.   What I said, I said. These entries
19 were material. Many of them were material,
20 and those, we saw no evidence that they were
21 approved by Dalton.
22   We saw a few things that Dalton
23 booked, but they were not the exact same
24 journal entries.
25   So I don't know who was the

85

1   Adam M. Pryce
2 accountant or who was depending on the auditor
3 to do their job. I don't know. We couldn't
4 test those.
5   And that's why we issued scope
6 limitation. We didn't form an opinion because
7 of restriction in our testing. We couldn't
8 test them. We couldn't form an opinion.
9   MR. KELLY: Can the court reporter
10   read back my question, please.
11   (Whereupon, the requested portion
12   was read back by the reporter.)
13   A.   The client has to approve the
14 proposed journal entries.
15   Q.   Did you ask Mr. Dawley about the
16 procedure for the adjusting journal entries?
17   A.   We did ask him.
18   Q.   What did he tell you?
19   A.   He booked in a different way. We
20 were not satisfied. He booked part of this,
21 part of that, part of that, and we were not
22 satisfied how he booked them.
23   That's why the books of Dalton,
24 again, the financial statements of Shron, they
25 didn't reconcile.

22 (Pages 82 to 85)

86

1   Adam M. Pryce
2   Q.   Did you ask anyone at Marks Paneth &
3   Shron how the adjusting journal entries were
4   dealt with?
5   A.   No, no. We were not -- the only
6   time we contact, as I said, two of my partners
7   contact Shron, was when Ron refer.
8   There was no reason for us to
9   contact an auditor.
10   The only case, we didn't contact
11 them, because Ron couldn't explain certain
12 information.
13   MR. HAYWOODE: Indicating Ron
14 Dawley?
15   THE WITNESS: Ron Dawley, yes.
16   A.   So he referred us, my two partners
17 spoke to Shron.
18   Q.   In conducting an audit of an entity
19 that had been previously audited by a CPA
20 firm, isn't it required procedure to contact
21 the previous CPA firm?
22   A.   Only case when you are taking over
23 from that auditor. You are the new auditor
24 and that auditor, you must contact the
25 predecessor.

87

1   Adam M. Pryce
2   That's in a case like you are the
3   new auditor for the entity. Then you contact
4   that person to find out why, if there is
5   something you didn't like. That's the only
6   case. That is required by GAAS.
7   Q.   Is it fair to say that if you had
8   any questions concerning the decisions made by
9   Marks Paneth & Shron in conducting their
10 audit, that you could have called up Marks
11 Paneth & Shron and asked them?
12   A.   Well, there's no requirement by
13 GAAS.
14   Q.   Would it have been good practice to
15 call up the auditor and ask how they came to
16 their decisions?
17   A.   We don't have anything like that
18 that governs that in GAAS.
19   Q.   Well, would it have been good
20 practice, whether or not it's in GAGAS or
21 GAAS, to call up the previous auditor and
22 say, I don't understand something, can you
23 explain it to me?
24   MR. HAYWOODE: I object to what
25 could have been, because anything could

88

1   Adam M. Pryce
2   have been.
3   Please, go ahead.
4   A.   We are governed by, in this case,
5   GAAS, GAGAS, GAAP. We don't have anything to
6   say, other than the case that I talk about
7   previous auditor, to contact them, because
8   that is how our behavior is governed.
9   MR. KELLY: I have no further
10 questions.
11   I have no further questions.
12   MR. TRAUB: I have nothing further.
13   MR. KELLY: Are we finished?
14   MR. HAYWOODE: I am finished.
15   (Time noted: 11:56 a.m.)

89

1   Adam M. Pryce
2
3
4   A C K N O W L E D G M E N T
5
6
7
8
9   I, ADAM M. PRYCE, hereby certify
10 that I have read the transcript of my
11 testimony taken under oath on the 22nd
12 day of April, 2009, that the transcript
13 is a true, complete and correct record of
14 what was asked, answered, and said during
15 the deposition, and that the answers on
16 the record as given by me are true and
17 correct.
18
19
20 _____
         ADAM M. PRYCE
21 Signed and subscribed to before me
22 this ___ day of _____, 2009.
23
24 _____
25   Notary Public

23 (Pages 86 to 89)

90

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 1
 2
 3    STATE OF NEW YORK )
               ) ss:
 4    COUNTY OF NEW YORK)
 5
 6         I, DONNA A. METZ, R.P.R., a Notary
 7    Public in and for the County of New York and
 8    State of New York, do hereby certify:
 9         That I reported the proceedings in
10    the within entitled matter, and that the
11    within transcript is a true record of such
12    proceedings.
13         I further certify that I am not
14    related by blood or marriage to any of the
15    parties in this matter and that I am in no way
16    interested in the outcome of this matter.
17         IN WITNESS WHEREOF, I have hereunto
18    set my hand this 28th day of April, 2009.
19
20
21

22         _____
           DONNA A. METZ, R.P.R.
           Notary Public
23
24
25
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91

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 1
 2              I N D E X
 3    WITNESS        EXAMINED BY       PAGE
 4    ADAM M. PRYCE    (Mr. Kelly)       4
                           73
 5
                (Mr. Traub)      37
 6
                (Mr. Haywoode)     60
 7
 8
 9           E X H I B I T S
10    DEFENDANTS'              PAGE
      FOR IDENTIFICATION
11
      Exhibit 18  Copy of Subpoena issued
12           to Adam Pryce,        32
13
14             o 0 o
15
16      DOCUMENT REQUEST:  Page 23
17             o 0 o
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19
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23
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25
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92

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 1
 2              E R R A T A   S H E E T
 3    CASE NAME:  EDMONDS vs SEAVEY
      DEPOSITION DATE:  April 22, 2009
 4    NAME OF WITNESS:  ADAM M. PRYCE
 5              C H A N G E S
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19    |___|___|_____|_____|
20
                 _____
                      ADAM M. PRYCE
21
      Subscribed and sworn to before me
22    this ___ day of _____, 2009.
23    _____
      (Notary Public)    (commission expires)
24
25
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1

A

able 51:17 71:24
abundant 50:13
ACCA 5:25 6:8,9
accent 82:7
accept 84:14
acceptable 13:24
  31:3 84:12
acceptance 70:23
accepted 14:4
account 44:22 45:2
  70:5,13 71:10
accountant 7:13,18
  32:12 63:6,17,19
  67:17 69:14,15
  70:24 76:12 85:2
accountants 6:2,12
  32:14 69:3,19
  74:17,22
accountant's 69:6
accounting 5:22 6:4
  6:15 7:2 11:14,16
  12:13 13:24 14:5
  14:21 27:3 31:4
  38:16 40:21 61:20
  61:22 62:8 73:9
  74:14,16 75:3
  82:12
accounts 20:3 71:2
accrual 62:8 73:9
  82:16
acknowledged
  21:10
action 37:7
actual 81:19
Adam 1:16 5:1 6:1
  7:1 8:1 9:1 10:1
  11:1,14,16,18,24
  12:1,5 13:1 14:1
  15:1 16:1 17:1
  18:1 19:1 20:1
  21:1 22:1 23:1
  24:1 25:1 26:1
  27:1 28:1 29:1

30:1 31:1 32:1,18
  33:1 34:1 35:1
  36:1 37:1 38:1
  39:1 40:1 41:1
  42:1 43:1 44:1
  45:1 46:1 47:1
  48:1 49:1 50:1
  51:1 52:1 53:1
  54:1 55:1 56:1
  57:1 58:1 59:1
  60:1 61:1 62:1
  63:1 64:1 65:1
  66:1 67:1 68:1
  69:1 70:1 71:1
  72:1 73:1 74:1
  75:1 76:1 77:1
  78:1 79:1 80:1
  81:1 82:1 83:1
  84:1 85:1 86:1
  87:1 88:1 89:1,9
  89:20 91:4,12 92:4
  92:20
addition 51:13
additional 35:4,11
addressed 24:16
  26:5 48:2
adjourned 36:15
adjusted 68:25
adjusting 61:5,8
  74:8,18 76:11,15
  78:14,25 79:11,25
  81:18,19 84:14
  85:16 86:3
adjustment 77:25
  78:2
adjustments 70:22
administration 43:5
advised 36:7
affidavit 49:15
afternoon 36:3,19
  47:22 51:2 52:22
agencies 40:9 41:2
ago 29:18 30:7 33:3
  47:19

agree 16:20 81:17
AGREED 3:7,16
agreement 18:3,5,7
  23:14 43:15,17
ahead 58:24 80:24
  81:3 88:3
AICPA 14:2 80:10
  80:12,15
aim 72:19
al 1:5,8
Alcan 7:14,15
allegations 49:5
allegedly 54:15
allocation 65:22
Aluminum 7:15,17
  7:20
amortized 30:25
amount 21:7 29:9
  69:20 78:14
amounts 65:22
analytic 14:17 18:17
answer 4:18 21:10
  22:21 31:16,17
  68:2
answered 89:14
answers 89:15
anticipated 33:19
anybody 30:14,18
  30:19 33:11,15,18
  40:24
appear 36:13
appearance 27:6
appeared 36:17
appearing 44:23
applies 81:23
apprised 36:5
appropriate 40:15
  76:14
approval 77:9
approve 63:9 83:21
  83:24 85:13
approved 62:5,14
  62:18 63:22,23
  69:12 75:8 77:3

84:21
April 1:11 89:12
  90:18 92:3
areas 18:22 60:11
  60:14,19
argue 56:18,20,21
argued 49:8
arm's 21:5
arose 64:10
arranging 11:4
asked 14:11 41:7
  46:18 47:19,24
  65:12,21 67:4,21
  74:3 87:11 89:14
asking 4:12 30:5
  63:8 81:7
asks 72:23
aspect 6:17,22 66:17
aspects 64:2
assessment 56:16
assessments 66:9
assignment 36:3
assisted 10:7 15:2
  15:24,25 38:23
  40:22
associated 65:2
associates 60:6
Association 6:2,11
assume 4:19
assurance 43:16
assure 73:9
attention 64:5 72:22
attestation 43:15
Attorney 2:4
attorneys 2:8,16 3:7
  56:9
audit 9:10,20 11:4
  11:25 12:2 13:9,14
  13:18,19,21,22,23
  14:9,18 17:3,6,10
  21:6 26:10,17 28:3
  28:17 29:17 34:21
  34:22 41:11 42:10
  43:14,14,18,23

2

3

coming 70:23,23
  77:24 78:4
commencing 22:2
comment 59:5
commission 92:23
communicate 31:22
communication
  23:15
companies 9:9,20,21
company 2:9 7:18
  7:20 10:5,12 11:13
compare 18:20
  77:15
comparing 17:17
comparison 17:13
  17:24
compel 46:6,19
compilation 11:21
complaining 49:16
complete 6:5,16
  89:13
completed 6:7,21
complied 75:4
component 45:13
computer 76:13
conceal 48:23 49:24
concealing 48:3
concerning 53:16
  64:10 76:21 87:8
concerns 13:6 64:15
conclude 56:11
conclusion 60:12
  81:13
conduct 13:14,18
  64:4 68:22
conducted 60:15
conducting 41:11
  86:18 87:9
confidential 51:19
confirm 20:10,12
confusing 43:21
  61:21,25
connection 19:9
  33:19

considered 28:9
  64:6
consistent 17:20
consult 14:19,22,23
  14:24
contact 31:24 33:11
  39:3,5,7 40:23
  41:4 86:6,7,9,10
  86:20,24 87:3 88:7
contested 31:19
continue 51:7
continued 53:20
continuing 8:20
  51:4 79:21
contract 17:18 28:7
  29:9
contradicted 49:10
contradictions 57:5
contravene 49:5
contravened 53:18
contravenes 57:4
contribution 41:14
  41:18
contrivance 53:10
control 61:14 79:19
  81:24,25
controller 10:4,13
  10:14 11:6 12:5
  15:23 37:11 43:8
convenient 58:16
conversation 30:22
convert 82:15
converting 62:7
copies 23:17,19
copy 18:6 32:18
  91:11
corporation 10:17
  10:18 15:7 17:14
  24:6 64:12
corporations 53:17
  60:7
correct 13:15 37:12
  38:3,10 41:12
  46:18 59:3 60:8

67:19 71:14 89:13
  89:17
corrected 67:20
correcting 61:6
correction 67:12
correctly 34:4
corroborated 21:15
  21:16,16,18
counsel 2:12,19 4:25
  5:8 24:2 25:17
  30:4 54:25 67:18
counselor 50:9
count 19:4 34:15
country 12:8
County 90:4,7
course 37:24 57:22
  59:6
court 1:3 3:13 7:4
  15:3 22:17 25:14
  32:16 51:22 85:9
courtesy 58:15
courts 36:4
cover 57:13
CPA 8:11,16,17,24
  9:2,15,20,24 11:14
  11:16,19,25 12:5
  75:2 80:19 86:19
  86:21
CPAs 80:11,15,15
credits 14:20
cross-examination
  53:12
current 11:11 39:9
  39:13
cut 66:15

───────────
D
───────────
D 4:3 89:4 91:2
Dalton 2:9 14:10
  19:20 20:3,4,5,16
  20:17,25 25:2
  28:25 32:11,12
  44:17,25 45:13
  61:19,19 62:5,6,14
  62:18,19 63:10,17

63:22 65:7,24
  67:16 77:16 78:11
  83:12,17,19,20,21
  83:23 84:2,4,5,9
  84:21,22 85:23
Dalton's 61:24
  83:12 84:8
Darren 2:12 37:6
date 32:20 34:16
  36:22 81:23,24
  92:3
dated 23:22
Dawley 2:9 20:11
  31:23,25 66:12,24
  76:2,5,10 85:15
  86:14,15
day 19:9 47:24
  48:16 49:22 53:13
  54:16,18 89:12,22
  90:18 92:22
daycare 9:22
de 28:4 29:10
deal 32:13
dealt 86:4
December 8:6 34:17
  34:20 35:2
decided 31:21
decision 77:6 84:3
decisions 28:2 63:2
  63:24 87:8,16
defendant 2:16 50:7
  54:11
defendants 1:9 2:8
  37:7 91:10
Defendant's 32:19
defending 80:25
deficiencies 61:17
deficiency 61:14,18
  79:19 81:25,25
definitely 67:2
deliberate 49:23
depending 85:2
deposed 35:23 47:22
  58:8

4

deposition 1:16 3:9
  33:14,16 36:15,22
  48:6,12,25 49:25
  52:19 54:7,9 55:10
  57:17 58:14,22
  59:9,11 66:12
  75:22 89:15 92:3
depositions 59:8
  66:22 76:5
depositon 49:17
  52:16 75:25
describe 10:15
  61:16
described 33:23
detail 45:6
details 44:24,24
determine 18:22
  51:17 82:25
determined 5:9
  16:25 63:17
determines 83:2
development 15:7
  65:23
developments 63:19
  64:16,18 65:6 66:2
  66:7,15
DHCR 16:11,14,15
  28:8,23 38:7,10,19
  39:3,5,7 40:6,24
DICKER 2:15
difference 28:9 69:5
different 43:10,19
  85:19
differs 78:11
difficult 58:11
direct 39:5,6
direction 36:6
directly 44:17 45:3
  45:10 48:2 49:9
  50:5 53:11,18 54:6
  54:8
director 39:8
disclaimer 22:5,12
  22:23 26:18,19,23

27:10,16
disclose 37:18 64:6
  71:7
disclosed 21:5,8
  37:21 44:10
discover 43:25 44:3
  44:12,15
discovered 43:11
  44:5,7,13
discovery 51:21
  65:17
discrepancies 24:23
disputes 31:3
dissatisfied 27:11,15
distribute 70:14
distributed 44:24
distribution 13:6,8
  45:4,5 70:6,10
  71:10
district 1:3,3 36:4
division 7:15
document 23:2
  24:11 25:25 26:3,4
  26:8,9 32:24 33:2
  33:6,6,9,12 34:16
  49:4 51:14 52:15
  52:21 55:7 91:16
documentary 19:12
documentation 30:4
  83:14
documents 19:19,22
  19:23 26:21 34:6,9
  34:18 35:8 46:6,20
  46:21 47:3,5,17,24
  48:3,7,12,19,24
  49:4,10,19,21 50:3
  50:4,18,21 51:3,18
  51:24 52:5,9 53:3
  53:14,18,23 55:17
  57:10,15
doing 8:11 27:3
  43:23 56:23
Donna 1:19 4:5 90:6
  90:22

DOUGLAS 2:3
Drive 2:17
driving 40:16
due 21:11,19 57:22
Duffus 8:23 9:13
duly 4:4
dwelling 42:18
D-u-f-f-u-s 9:2

————————— E —————————
E 2:2,2,21,21 4:3
  89:4,4 91:2,9 92:2
  92:2,2,5
EDELMAN 2:15
Edmonds 1:5 4:14
  5:6,14,16 12:21,25
  13:5,14,18 15:19
  16:20,21 18:2
  20:12,13 21:10,19
  23:2,5,11,16 24:3
  25:6 26:6 30:15
  34:13,23,24 35:5
  37:23 41:12 42:2
  43:10,18,24 47:23
  53:13,16 54:7
  64:25 92:3
Edmonds's 64:15
EDMONS 2:22
educational 5:21 6:6
  6:17,21
effect 3:13
effort 49:24
either 44:16
ELSER 2:15
email 46:10
employees 64:10,11
employer 7:23
employment 11:9
enclosing 57:14
engage 57:18
engaged 13:13,17
  13:20 16:19 17:25
  55:9
engagement 4:13
  12:21,22,25 18:2,4

18:7,8,9,11,12
  19:10,17,18 21:22
  21:25 30:15 78:20
  79:4 80:5
engagements 11:22
  12:7
ensue 48:13
enter 18:2
entered 77:11
Enterprise 10:10
entities 26:11
entitled 90:10
entity 16:10 40:4
  41:10 86:18 87:3
entries 61:6,6,8,11
  61:18 62:2,3,9,13
  62:18 63:9,21 69:2
  69:12 74:9,19 75:8
  75:11,13,15,16
  76:6,11,13,16,25
  78:14,25 79:11,16
  79:25 80:4 81:18
  81:20 82:15,17,18
  82:22 83:8,9,15,18
  83:24 84:3,14,15
  84:18,24 85:14,16
  86:3
entry 70:22 75:6
  83:12
equivalent 6:3,14
ESIC 10:9
especially 49:7
ESQ 2:3,12,18
estate 12:9,9
estimate 28:24 29:2
estimates 28:18,19
  28:20,20
et 1:5,8
Europe 31:20
evidence 19:12 27:6
  27:18,21 28:14
  29:13,14 49:24
  53:11 54:5 57:4
  60:13,20 62:5,13

5

62:17 63:10,13
71:5,17,18 72:5
73:20 76:21 78:10
84:20
evidences 29:15
evidential 73:19
exact 29:9 57:15
81:23 84:23
exactly 16:17 50:11
exam 8:17 80:20
examination 4:7
8:12,15 37:2 60:2
68:3 73:23
examine 17:22
59:24 82:12
examined 4:5 91:3
example 17:17 20:2
28:6,7 29:8,8 44:7
77:23 78:20 79:4
examples 29:5,12,23
exceeded 29:9
excessive 62:12
79:16,17,25
exchanged 53:5
executive 39:8
exhibit 22:18 25:15
25:22 32:17,19,21
33:22 34:25 91:11
exhibits 26:14 56:9
56:12 57:16
expended 70:19,21
expenses 17:18
64:17
experience 7:7
15:22 42:20 79:8
79:10
expires 92:23
explain 40:20 76:19
83:3 86:11 87:23
explained 5:4
express 26:16
external 27:2 29:3
e-mail 50:19 51:5
e-mails 54:16,20

F

fabrication 52:24
FACES 10:3,3,11
10:14,21 11:6,10
12:4 16:13 37:11
37:14,20,25 38:22
38:25 40:21 42:21
42:23,24
fact 21:2 31:21
50:20 51:2
facts 56:10,18,18,19
56:20 76:21
factual 50:14
fair 4:21 63:15 87:7
familiar 39:19,22,25
40:3,5,9,18,19
64:9,13
family 45:12
far 50:2 51:5
fast 82:10
federal 36:3 45:17
45:22 51:22
fee 16:24 17:5 19:18
fees 30:25,25 41:19
41:19,20,21
Feinstein 1:18 2:7
field 54:4 80:21
fieldwork 18:13,14
18:15 19:2,21 22:3
Figuratively 57:2
figures 25:3 44:13
68:23 69:2 77:17
82:3,4
file 2:13,19 24:4
filed 46:5,10,25 52:8
files 43:9
filing 3:9 46:8
final 23:9
finance 30:25
financial 10:17,22
10:25 11:3,23
13:19,20,22,23
16:23 22:8 42:6
43:18,23 62:19,24

64:4 68:24 69:7,24
70:3,11,20 71:6
73:8 77:14 78:11
83:16 85:24
find 87:4
findings 34:19 42:3
42:4,9,13 62:25
finish 22:10
finished 35:15,17
88:13,14
firm 11:14,16 12:14
86:20,21
first 7:11 9:6 14:10
14:11 16:4,19
17:25 50:16,17
61:3 71:4
five 25:9 47:23 61:8
61:9 78:15,19,25
80:3
fix 60:4
fixed 19:17,18
fluctuation 18:18,19
18:21
follow 13:24 14:3,6
14:6,7 73:2,6,7,25
81:13,15,15
following 53:13
54:18 76:24
follows 4:6
followup 37:9
force 3:12 49:24
forget 16:7
form 3:17 22:7,11
22:13 30:8 60:20
62:23 63:14 69:4,8
72:4,6 85:6,8
formation 41:16
formed 12:22 41:9
73:3,4
forward 5:15
found 20:5,14 48:6
founding 12:13
four 41:25 43:24
49:6

fourteen 67:15
Friday 47:23 51:4
57:17
front 25:23 32:21
59:18
frontline 64:10
full-blown 43:15
full-time 11:7,8
37:10
funded 43:4
further 3:15 21:2
45:25 48:5,17
57:19 58:3 59:16
73:17,21 88:9,11
88:12 90:13

G

G 89:4 92:5
GAAP 14:4,5,6,21
15:9 16:7,7,7 27:7
31:3,7 43:21 62:9
62:9 63:7 72:23
73:7 74:6 76:24
78:21 79:5 81:15
88:5
GAAS 13:24 14:6
14:21,22,22 15:12
16:8,8 27:8 43:21
72:23 73:6 74:6
76:24 78:21 80:6
81:15 87:6,13,18
87:21 88:5
GAGAS 14:2,7,22
15:15 16:5,6,6
27:7,23 28:12 64:2
68:11 72:23 74:6
84:12 87:20 88:5
Gannett 2:17
gap 77:16
gather 73:18
general 14:4 31:3
45:6 69:23 70:18
generally 13:24
getting 77:9
give 29:22 36:10

6

48:19 49:2 55:23
given 24:2 33:2 35:7
  50:6 52:22 66:16
  71:23 89:16
gives 20:19,22 25:2
giving 52:6 79:4
go 7:8 18:15,25
  31:12 32:7 43:13
  58:24 71:9 74:7,12
  74:20 76:23 80:23
  81:3 82:2,10 88:3
goes 70:5,6,12
going 7:3 17:2,5,10
  22:16 25:14,20
  30:10 32:15 45:19
  45:21 51:7,9 57:20
  73:25
good 4:9,10 37:4,5
  87:14,19
governed 16:6,8
  45:19,22 73:6 88:4
  88:8
government 14:3,25
  16:5
governmental 40:2
  40:8 41:2
governs 72:24 87:18
great 21:2
Griffiths 12:14,16
  12:19 21:23 22:3
  24:5 26:5 30:21
  31:12 32:5,7 34:18
  35:20 36:7,12,18
  37:15,17,19 41:9
  41:10,15 42:11
group 45:12 64:18
  65:3
guide 14:19
guides 14:20
G-A-A-P 14:5 15:9
G-A-A-S 15:12
G-A-G-A-S 15:15

H

H 7:25 8:2,4,9 91:9

92:2,5
hand 22:17 55:11
  90:18
handling 37:23
happened 69:4,9,22
  70:25 71:13 72:14
  73:12
Haywoode 2:3 5:4
  6:10 8:14 15:6
  23:24 25:16 27:11
  27:14 29:19,24
  30:12 31:14 32:9
  35:19 36:24 40:12
  40:14 45:9,18,23
  46:11 47:4,8,13
  50:11 52:13,19,20
  53:4 54:22,23
  55:14,20,25 56:3
  56:17,22,24 57:3,9
  58:3,19,21 59:24
  60:3,23 64:23
  65:16,20 66:20
  67:6,11,23 68:4
  72:8,11 73:17,21
  74:2 76:7,17,20
  80:19,23 81:3,7
  82:6,23 86:13
  87:24 88:14 91:6
HDC 39:15,17,18,20
  39:21,22,23
HDFC 16:15,16
  38:2,4,7,9,12,16
  38:17,21 39:2,7,16
hear 4:16 7:4 76:4
heard 30:9 46:22
  48:6 64:19 68:6
held 1:17 9:6 49:19
  53:19 55:6 59:10
hereto 3:8
hereunto 90:17
Herrick 1:18 2:7
hiding 50:4
high 18:22
Hill 66:2

history 5:21
hold 53:20
home 29:8 44:21
  49:12 66:3
hours 28:5 46:7,12
  47:2,23 52:9
housing 10:7 15:6
  16:17 41:3 42:18
  42:24 79:12
HRA 43:4
HUD 10:7 14:24
  15:2,4,5,20,21,24
  15:25 16:2,4 38:4
  38:17,23 40:3,4,6
  40:10,18,22,24
HUD-regulated
  79:12,15,15
hundred 19:5,6
hundreds 53:4,8
hypothetical 76:18
H-U-D 15:4

I

idea 54:19
identification 32:20
  91:10
identified 23:3
identify 65:14 74:5
  78:12,23
ill 36:8,9,14
impact 68:10
impacted 54:8
impairing 84:16
implication 63:23
  71:11
implies 66:18
important 27:5
  81:18
imposes 16:3
inability 49:16
include 53:22
including 10:18
  66:7
income 10:7 11:22
incorporated 12:17

incorrect 52:3 82:17
independence 27:2
  27:2,4,7,19 28:15
  68:11 82:19 84:16
independent 11:3
  22:4,19,24 68:17
  73:5
indicate 35:20
indicated 35:21
  36:20 48:4
indicates 57:5
indicating 66:8
  86:13
Indies 5:23
individual 76:5
inform 23:4
information 32:2
  36:6 65:6,13,15,16
  66:11,18 67:5,7,9
  67:13,22 86:12
informed 23:11 36:2
  36:14,17 52:2
inhouse 11:2 26:13
initial 41:17
initiating 41:16
inside 45:6
instance 68:22
institute 40:2
intend 46:25 57:18
intended 48:20 54:6
intention 35:22
interest 5:13
interested 90:16
interests 37:19
internal 61:14 79:18
  81:25
interrupt 8:19
invested 72:12
investigation 24:5
  51:2
Investment 7:11
invited 13:2,4
invoice 20:19,22,23
  20:24,25

7

involved 38:2 79:12
involvement 10:24
  15:18 38:12
issue 22:4,5 30:23
  34:9 64:9
issued 22:24 25:11
  26:20 32:18 34:3,5
  34:12,25 69:19
  81:22 85:5 91:11
issues 23:3 26:25
  27:4,19 28:15
  31:13 32:7
items 23:7,12 24:16
  24:18,18

J

J 2:18
Jamaica 5:24 7:2,12
  7:17,19
Jennings 66:24 67:3
  75:23
job 7:11 12:18 37:11
  37:15 85:3
John 1:5 2:22 5:6,14
  5:16 26:5 34:12
  53:15 54:7 64:25
join 13:12 41:7
joined 42:7
journal 61:5,6,11
  62:2,3,9,12 63:9
  63:21 69:2,6,12
  70:22 74:8,18 75:6
  75:8,11,13,15,16
  76:6,11,13,15
  78:14,25 79:11,16
  79:25 80:3 81:18
  81:20 82:14 83:9
  83:24 84:3,14,15
  84:24 85:14,16
  86:3
judge 25:19
judgment 18:23,24
  82:25 83:2
June 12:17

K

K 89:4
keep 7:3 58:23
  81:14
Kelly 2:18 4:8,10
  22:16 25:13 30:9
  32:15 35:14,17
  36:2,11 57:24
  60:17 61:2 63:5,20
  65:10,12,18 66:17
  67:2,10,21,25 68:8
  68:14 69:10,16,25
  71:3,15,20 72:2,9
  72:16,18 73:14,24
  78:6 81:4 85:9
  88:9,13 91:4
Kelly's 36:6
kept 75:3
kind 43:20
Kings 2:5
Kingston 5:23
knew 48:9 50:2
  51:24 55:8,21,24
  56:7
know 4:11,17,24 7:9
  9:17 16:5 19:14
  20:14 25:10 29:14
  34:7,11,14 37:14
  38:13 39:21,24
  40:11,13,14,16
  45:11 47:10 48:20
  49:7 50:16 52:21
  55:21 56:2,8 57:12
  58:23 71:13 72:7
  72:11 73:11,13,16
  73:20 75:18 84:7
  84:25 85:3
knowing 56:10
  72:14
knowledge 47:18
  50:15 64:22 77:10
known 12:14 50:25
  58:15

L

L 1:5 2:21,22 3:3
  89:4
label 50:23
Lakeview 28:6 29:7
  66:8
large 82:3
law 56:20,21 75:4
lawsuits 49:6
lawyer 48:23 49:3
  55:6 56:11
lead 21:24
leading 31:15 76:7
learn 12:24
leave 36:4
ledger 45:7 69:23
  70:18
legal 41:2
length 21:5
Leroy 8:23 9:13
letter 57:13 63:8
  74:7,17,24,25
  78:21 79:4,5 80:5
letterhead 75:2,5,7
  75:21
letters 15:10,13,16
  64:8 74:21
let's 58:14 68:20
level 6:3,13,14
levels 82:4,8,9,11,13
liability 10:8,11,19
  20:20,21
license 12:10
life 31:2,5
limitation 85:6
limitations 22:9,15
  26:23
limited 10:8,10,19
  43:16
line 70:2,4,9,11,14
  71:8 92:6
listed 65:25 66:6,15
listen 5:12
literature 78:18,24

little 5:20
live 54:21
LLC 2:9
LLP 1:18 2:7,15
loan 30:24 31:3,6
  44:9 77:24
Logan 66:2
logs 19:15,16
long 8:4 11:15 47:19
  80:22
look 16:23 24:14,21
  44:21 68:19 71:4
  74:11 77:14
looked 56:11 60:6
  60:11 63:16 70:17
  70:19 83:24 84:2
looking 33:22 56:9
  69:23,24
looks 49:23
loud 7:4
low 10:7
L-e-r-o-y 9:2

M

M 1:16 2:3,8,12,23
  4:3,3 5:1 6:1 7:1
  8:1 9:1 10:1 11:1
  12:1 13:1 14:1
  15:1 16:1 17:1
  18:1 19:1 20:1
  21:1 22:1 23:1
  24:1 25:1 26:1
  27:1 28:1 29:1
  30:1 31:1 32:1
  33:1 34:1 35:1
  36:1 37:1 38:1
  39:1 40:1 41:1
  42:1 43:1 44:1
  45:1 46:1 47:1
  48:1 49:1 50:1
  51:1 52:1 53:1
  54:1 55:1 56:1
  57:1 58:1 59:1
  60:1 61:1 62:1
  63:1 64:1 65:1

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8

66:1 67:1 68:1
69:1 70:1 71:1
72:1 73:1 74:1
75:1 76:1 77:1
78:1 79:1 80:1
81:1 82:1 83:1
84:1 85:1 86:1
87:1 88:1 89:1,4,9
89:20 91:4 92:4,20
magistrate 48:23
49:8,14,21 51:6
53:21,24,25 54:13
55:5 59:14
main 10:6
maintain 19:8,11
major 57:5,5
making 76:15
management 2:9
10:12,17 14:11
19:20 20:4,6,18
23:5,5,15,18,22
24:13,17,20 25:5
28:2,18,19 32:11
32:13 33:24 34:2
44:17 45:14 62:21
62:22 63:24 64:8
65:7,24 67:17
69:13 74:8,18,23
76:15
management's 77:6
manager 65:7
Maple 2:4
mark 32:16
marked 32:19 57:16
Marks 2:16 30:14
30:22 31:11 32:5
37:8 63:18 65:7
66:18 67:15 77:11
77:15 83:11 86:2
87:9,10
marriage 90:14
master's 6:4,15
material 24:18
60:19 64:6 82:11

82:13 84:19,19
materiality 82:4,8,9
matter 21:7 32:13
73:19 90:10,15,16
matters 64:4 71:7
72:20 76:23
maximum 28:5
mean 8:19 18:14
19:14,15 34:7
38:14 39:18,23
40:11 41:25 82:21
83:10
means 67:19
meet 32:6
Mel 72:8,11,19
member 12:13
64:19
mentioned 21:9
mentions 27:23
Metz 1:20 4:5 27:12
46:13 90:6,22
midst 49:4
migrated 7:21,24
million 69:21,22
70:19,20
mind 84:8
mindful 5:14
minimis 28:4 29:10
missed 46:11
missing 43:11,25
44:13 50:18
misstatement 59:4
misstatements
50:13
Mitchell-Lama
39:11
modified 26:19,22
Monday 48:11
50:21 52:15 54:13
55:4
money 21:11 43:11
43:25 69:5,6,9,20
71:23,24 72:7,12
72:12,13,15

moneys 71:11
monies 45:2,10
69:17 71:2,14
monitor 54:16
morning 4:9,10,12
35:22 36:10,18
37:4,5 47:15 48:11
50:21 52:16 54:13
54:15 55:7 80:20
MOSKOWITZ
2:15
motion 25:20 46:5,8
46:17,19,25 47:17
48:15 49:13 52:3,8
52:14 54:14 55:5
57:21
mouth 50:14
moved 7:14
multifamily 41:3
42:18
mystery 21:2

N

N 2:2,21 3:3 89:4,4
91:2 92:5
name 4:11 37:6 56:5
92:3,4
nature 31:15
Nealle 2:9 54:10
nearest 36:22
need 17:15,23 23:7
51:20 62:10 64:6
71:4 77:19
needed 32:2
neither 56:22 62:6
63:11,14
never 49:20 52:5
55:18
new 1:3,19,19,22
2:5,11,11,17 10:3
10:11,14,21 11:7
11:10 12:5 37:11
37:20,25 38:22,25
40:22 42:21,23,24
43:4 80:10,14

86:23 87:3 90:3,4
90:7,8
nice 55:13
night 50:19 54:4,20
55:4
non-for-profits 9:12
normal 61:7,10 63:6
74:10 78:13,14,16
78:19,25 79:3,7,9
80:2,8
Notary 1:21 3:12
4:4 89:25 90:6,22
92:23
note 51:13
noted 88:15
notes 24:3
notice 14:25
not-for-profit 9:21
10:6 12:3
Not-for-profits 9:11
November 8:12,18
23:22 81:22
number 19:22 22:14
23:15 25:7 29:6
53:7,9 54:24 55:2
55:15 61:5,18 62:3
68:16 75:16 79:11
79:24 81:17 82:17
numbering 52:24
NY 10:3

O

o 2:21 3:3,21,21
89:4 91:14,14,17
91:17
oath 89:11
object 5:13 30:8
40:12 45:9 87:24
objection 29:19,25
30:2,9 31:14 32:9
45:16 60:17 61:2
63:5,20 65:10 68:8
68:14 69:10,16,25
71:3,15,16,20 72:2
72:3,9,16,18 73:14

76:7,17 82:23
objections 3:16
objective 63:15
observer 63:16
Obviously 4:11
occasion 65:21 66:4
occurred 51:15,16
occurs 51:21
offered 31:11 32:6
office 33:3 46:7,23
  47:6,14 49:11
  50:24 51:4,15,16
  51:25 52:4,10 53:3
  54:15,20,21 55:9
  55:16,19 57:11
  58:12,18 64:11
  65:24
offices 1:18 83:11
oh 56:12 58:3
Okay 5:17 7:6 8:22
  18:12 27:22 42:6
  67:10 84:6
Once 45:15
ones 40:10
open 36:22
opinion 22:6,7,11,13
  26:12,16,18,20
  27:10,10,17 45:18
  45:20 60:21 62:24
  63:14 69:4,9 72:6
  81:14 85:6,8
opinions 45:24 73:3
  73:4
order 17:16 22:10
  35:24 63:11
organization 2:10
  10:6
Orley 5:5,9,18 9:15
  9:19,23 10:2 13:2
  13:3 20:9 21:15,18
  21:24 30:16
other's 42:14,15
outcome 90:16
overall 10:16

overreaching 27:23
  28:10,11 63:25
  64:2
overseeing 11:5
owes 20:20
owned 10:9 64:18
  65:2
ownership 53:16
owns 20:20
o'clock 36:5 47:12
  47:13

P

P 2:2,2,21 3:3 4:3
Page 91:3,10,16
  92:6
pages 53:9
paid 45:3,5,10 64:11
Paneth 2:16 30:14
  30:22 31:11 32:5
  37:8 63:18 65:8
  66:18 67:16 77:11
  77:15 82:18,20,21
  83:2,7,11 86:2
  87:9,11
paper 24:10 53:5
  65:25 66:14
papers 24:3 47:19
  81:13,14
Park 1:18 2:10
part 85:20,21,21
particular 19:9,24
  34:6
Particularly 49:13
parties 1:17 3:8
  53:6 57:14 65:17
  90:15
partner 21:15,24
  31:11,18 35:21
  37:16 64:16
partners 20:6,8,13
  20:15 21:11,19
  30:16,17,20 31:23
  32:4 45:5 70:15
  86:6,16

partnership 10:9,11
  10:19,20 37:19
  64:12 70:12
partnerships 41:25
  43:24 44:16 70:4
  75:14 77:13 79:12
party 21:4,8 44:10
  68:15,16
passed 8:12,17
pattern 29:7
Pause 35:16
payable 20:3
payables 61:23
  62:11
paying 64:17
payment 65:22
payments 44:15
percent 16:25 17:5,7
  17:8,21,21
percentage 17:19
performed 26:10
permissible 45:17
person 87:4
personal 40:23 41:4
  72:25 73:3,4
personally 30:17
  41:20
pertains 68:6,7
phone 54:24 55:2
photocopies 51:8
photocopy 51:10
Phyllis 2:8,23 52:16
  54:9 56:5
physically 76:6
piece 24:10
piecemeal 51:8
pieces 53:4
place 58:12 70:6,8
  71:11
places 35:9
Plains 2:17
Plaintiff 1:6
Plaintiffs 2:4
planning 11:23 14:8

  14:17 17:16
Plaza 66:3
please 4:17,24 8:25
  30:12 78:7 81:5
  85:10 88:3
Plus 43:3
point 12:12 13:13
  13:17 22:2 30:13
  60:8 78:17 79:20
  79:23 80:13
pointed 46:9
portion 46:15 78:8
  81:10 85:11
posing 52:11
position 5:18 9:6
  10:2 11:7,8
positions 16:10
possession 24:8,12
  30:5
possibly 56:13
pound 56:23
pounded 56:24
practice 63:7 74:10
  74:13,16 78:16,19
  79:3,7,9 80:2,3,8
  87:14,20
predecessor 86:25
preliminary 14:17
premise 36:16
preparation 8:3
  10:25
prepare 10:21 11:2
  34:18 50:23 74:22
prepared 36:9
preparer 8:3
preparing 14:18
present 30:6 35:22
  65:6 67:7,13 75:22
  75:25
presentation 73:8
presentations 57:6
presented 52:15
  68:23
presume 59:14

10

previous 18:20 21:9
  22:21 34:9,15 66:4
  66:12,21,22 77:20
  86:21 87:21 88:7
previously 33:23
  86:19
price 16:20
principles 14:5
  27:24 31:4
prior 15:18 33:14
  34:6,10,11 46:8
  47:18
privileged 51:19
problem 23:8 31:7
  50:10,12 56:15
  58:20 69:11
problems 44:4
procedure 18:17
  85:16 86:20
proceed 30:10 48:5
  49:17
proceedings 90:9,12
produce 47:5 51:11
  54:12 55:16 61:4
produced 46:6 47:6
  49:20,22 51:20,24
  52:10 54:11 57:11
  83:14
produces 14:15
production 47:2
  50:24 51:14 53:22
profession 74:14,16
  80:8
professional 1:20
  6:22,25 12:6 14:19
  18:23,24 28:21
  50:10,12 56:15
  78:12,17,18,24
  79:23
professionally 50:9
  55:12
project 12:18 13:2,4
  14:25 15:23 37:22
  38:2,17,23 39:2,7

39:9,10,13,15
projects 10:7 15:2
  15:24,25 16:3,13
  16:14,15 40:22
  41:3,12,24 42:19
  42:22,24 43:3,7,10
  79:13
proper 17:16 75:3
  81:12,14
proposal 70:22
propose 61:9 75:10
  76:24 77:2
proposed 62:4,18
  69:12 70:21 74:18
  75:6,9 77:3 83:9
  85:14
provide 11:25 22:25
  25:5 35:4
provided 16:22
  57:16 65:16 76:12
Pryce 1:16 4:9 5:1
  6:1 7:1 8:1 9:1
  10:1 11:1,14,16,19
  11:25 12:1,5,14,16
  12:19 13:1 14:1
  15:1 16:1 17:1
  18:1 19:1 20:1
  21:1,23 22:1,3
  23:1 24:1,6 25:1
  25:22 26:1,5 27:1
  28:1 29:1 30:1
  31:1,12 32:1,7,19
  33:1 34:1,18 35:1
  36:1 37:1,4,15,17
  37:20 38:1 39:1
  40:1 41:1,9,10,15
  42:1 43:1 44:1
  45:1 46:1 47:1
  48:1 49:1 50:1
  51:1 52:1 53:1
  54:1 55:1 56:1
  57:1 58:1 59:1
  60:1,4 61:1 62:1
  63:1 64:1 65:1

66:1 67:1 68:1
  69:1 70:1 71:1
  72:1 73:1,11,25
  74:1 75:1 76:1
  77:1 78:1 79:1
  80:1 81:1 82:1
  83:1 84:1 85:1
  86:1 87:1 88:1
  89:1,9,20 91:4,12
  92:4,20
Pryce's 35:25
public 1:21 3:12 4:4
  11:13,13,15 89:25
  90:7,22 92:23
purpose 12:20 26:7
  26:9 41:11
pursuant 1:17
put 5:15 41:14,19,20
  41:21 47:25 53:15
  69:20 83:18,20
p.m 52:2

_____

Q

question 3:17 4:16
  4:16,18,19,20 17:9
  29:20 30:2,8 31:15
  38:24 40:17 43:22
  49:14 52:11,14
  56:13 59:21 63:12
  65:13 66:5 68:2,5
  78:7 81:4 82:19
  83:6 85:10
questionable 72:21
questioning 30:11
  35:18
questions 4:13
  20:18 25:17 33:25
  37:9 46:2 47:25
  48:22 53:15 57:23
  59:17 68:10 73:17
  73:22 74:2 87:8
  88:10,11

_____

R

R 2:2,21 4:3 7:25

8:2,4,9 92:2,2
raised 24:19 48:22
  52:14 66:5,11,14
raises 49:14
read 46:14,16 78:6,9
  81:4,11 85:10,12
  89:10
ready 35:23
real 12:9,9
reason 86:8
reasonable 28:21
recall 19:23 25:7,8
  31:9 32:10 35:6,11
receivables 61:23,24
  62:11
receive 23:21
received 24:3 33:5
  33:12 46:21 65:25
  66:6
recognize 25:25
recollection 30:6
  66:23,25 67:8
recomendation
  78:23
recommend 80:12
recommendation
  80:14 81:12,16
recommended
  78:22 79:6 80:6
recommends 80:9
  80:10,11
reconcile 85:25
record 23:20,24
  35:19 36:12 46:3,4
  46:24 52:7 58:22
  61:22 89:13,16
  90:11
records 19:8,11 24:2
  38:16 72:20 75:3
refer 86:7
referred 28:14
  31:23,25 41:8 54:3
  68:11 86:16
referring 22:20

12

43:2
shares 53:17
sheet 66:6 76:12
shelter 28:24
shepherds 54:3
show 25:15 45:2
  52:18 55:15 68:25
Shron 2:16 30:14,19
  30:22 31:11,24
  32:6 37:8 63:18
  65:8 66:18 67:16
  77:11,15 83:11
  85:24 86:3,7,17
  87:9,11
side 56:19,21
signed 3:11,13
  89:21
similar 34:10,18
  42:21 75:6
simply 69:23
single 55:16
sir 60:22 70:16
sit 31:11 76:12
site 43:3
sits 30:6
situation 64:20 68:6
  68:7,20,21,21
  70:18
six 7:18
sixteen 67:15
sleight 55:11
small 9:21 11:20
snuck 54:14
Society 80:11,14,15
solely 26:13
somewhat 36:8
Sorry 6:19 8:14
sound 51:5
source 66:10 67:8
SOUTHERN 1:3
speak 30:13,18,19
  33:15,18
speaking 52:20
specific 23:2 65:18

specifically 12:18
spell 8:25
spiriting 50:4
spoke 30:16 31:8
  86:17
spread 69:18
Sprostons 7:14
ss 90:3
staff 65:24
stand 16:16 59:13
  67:20
standard 78:13,18
  79:24,24
standards 13:25,25
  14:3
start 77:19
started 6:25
state 1:21 40:7,25
  41:19 46:4 51:22
  52:7 80:10,14 90:3
  90:8
stated 20:25 37:10
  37:25 41:6
statement 22:8
  59:13 62:20,22,24
  68:24 69:7,24 70:3
  70:12,20 74:5
  77:15 78:11
statements 10:22,25
  11:3 16:24 42:7
  46:19,20 73:8
  83:16 85:24
States 1:3 7:21,24
Stearns 72:13
Stengle 71:23,25
step 18:13
steps 14:8 18:10
stick 27:16
STIPULATED 3:6
  3:15
stole 72:12
Stop 82:5,6
strange 14:14 32:3
street 2:4 58:13

strike 25:13,18
subject 15:20 67:12
submitted 30:3
  49:11
Subpoena 1:17
  32:18 91:11
subpoenaed 36:13
subscribed 89:21
  92:21
substantial 45:13
suddenly 44:22
suggests 61:13
  69:11 83:23 84:2
suggestss 83:21
suits 57:7
Sunday 47:22 48:4
  48:8 50:19 51:6
  55:4,4,22,24
support 19:13 60:14
  83:15
supporting 60:13
  71:5
supposed 27:25
  72:21 74:12,25
  75:10
suppress 53:11 57:7
suppressed 53:19
suppressing 54:5
sure 28:20 36:21
  77:20
surrounding 26:25
sworn 4:4 92:21
system 14:14 61:3

─────── T ───────
T 2:21 3:3,3 89:4
  91:9 92:2,2
table 56:23,25
take 4:23 5:18 14:8
  18:10 68:20 76:11
taken 1:16 89:11
takes 70:6,8 71:11
talk 5:5 83:4 84:4
  88:6
talking 7:7 19:15

68:19 80:17
tax 8:3,3 28:24
taxes 11:22
team 13:12 41:7,8
tell 5:20 13:3,7 16:2
  30:21 31:10 32:5
  48:10 51:9 69:22
  70:25 71:19,22
  84:7,8,10 85:18
telling 75:2
tells 24:22
ten 7:2 61:9 78:15
  78:19 79:2 80:3
term 39:19
terms 19:12 38:14
  68:25
test 19:13 20:4,23
  24:23 28:18,20
  44:6 71:6 72:19
  73:19 82:14 83:5
  85:4,8
tested 18:22 23:8
  26:25 44:9 60:11
testified 4:6 38:6
testifying 74:15
testimony 33:19
  35:25 36:10 50:5
  60:10 66:21,23
  67:3 76:4,20 82:24
  89:11
testing 18:16,21
  19:12 20:24 22:10
  23:12 44:23 60:14
  83:3 85:7
text 55:24
Thank 45:8 67:25
theoretically 69:21
thing 14:11 16:4
  58:4 61:3 71:4
things 29:6 39:24
  63:12 84:22
think 8:6 9:18 11:17
  12:17 19:6 20:9
  21:16 31:7,18 35:8

13

35:14 58:19 79:14
third 35:21 44:10
third-party 21:3
thirty 31:2,6
thought 76:13
thousands 53:8
three 15:2 42:12
  49:6 66:2,16
Thursday 47:20
  49:19 50:2,25
  52:22 54:4 55:17
time 3:18 4:15,23
  8:8,11 9:13,25
  11:11 12:12 16:9
  19:15,16 31:18
  33:5 47:4 50:17,22
  51:11,25 52:23
  55:8 66:14 80:22
  86:6 88:15
times 18:25 19:3,3,5
  19:7
timesheets 19:16
today 5:2 30:7 33:10
  33:14,20 45:19
  58:9 59:12
told 13:5 20:7 50:17
  67:23 76:10
touched 54:6
transaction 21:3,4,5
  21:8 44:11 68:16
  70:8 72:4
transactions 44:5
  68:17 71:9 82:12
  82:12
transcript 3:11
  89:10,12 90:11
Traub 2:12 23:20
  37:3,6 41:23 45:15
  45:21,25 46:12,17
  47:4,7,12 50:11
  52:18 53:2 54:22
  55:13,25 56:17
  57:2,9 58:19 59:3
  59:20,23 71:16

72:3 80:17 82:5,9
  88:12 91:5
traveling 31:19,20
trial 3:18 14:12,13
  14:15,16 16:24
  25:2 61:4
tried 20:23
true 67:11,18 89:13
  89:16 90:11
try 60:4
trying 70:16
Tuesday 55:7,23
twelve 64:25
twenty 61:11
twice 51:12
two 7:12,16 9:16
  17:12,12,13,15,15
  17:23 27:23 29:15
  31:22 35:9 59:7
  62:9 71:2 74:21
  86:6,16
type 7:5 9:20 11:18
  11:24
types 9:9 34:5

U

U 3:3
Um-hum 15:14
unable 58:7 60:12
unaccounted 43:12
  44:2
unavailable 36:20
  58:6 59:6
understand 4:15
  38:13 50:8 61:20
  70:16 87:22
understanding
  21:12,14 34:4
understood 4:19
United 1:3 7:21,24
units 64:25
University 5:23
untrue 46:22
unusual 60:24
update 34:23,24

35:9,10,11
updates 35:5
updating 34:19
Urban 15:6
urge 25:16
use 14:16 26:13
  43:20 61:21
usually 14:14 17:12
  61:9 62:15
U.K 6:3,12

V

various 57:14
vendor 20:19,20,22
verify 24:25,25
  44:14
visited 14:10
voice 7:4
vs 92:3

W

W 1:8 2:8 89:4
wait 51:9
waiting 53:14
waived 3:10
want 7:8 17:19
  23:20 29:14,22
  46:3,24 52:21 56:8
  57:25 58:23 81:8
  84:10
wanted 49:18 51:10
  58:25 59:2
wants 13:8
wasn't 17:9 47:15
  49:12 52:15,22
  56:5 83:6
way 26:20 38:7
  51:21 62:6 69:3,8
  70:25 72:14 77:24
  85:19 90:15
weeks 33:3 59:7
went 44:17 53:21
  71:24 72:7 82:21
  83:11
weren't 27:8

West 5:23
whatsoever 50:15
WHEREOF 90:17
White 2:17
wide 77:16
WILLIAM 2:18
willing 35:23
WILSON 2:15
wish 5:7 59:24
withdraw 25:17
  29:24 46:18,25
  52:8 57:21 60:23
  64:23 83:25
Withdrawn 41:23
withheld 47:21
witness 5:3,15,17
  6:11 8:16 15:8
  22:17 25:15 27:13
  30:3 31:16 57:25
  59:17,19,22,25
  73:18 76:8 81:6
  82:10 86:15 90:17
  91:3 92:4
witnesses 66:21
witness's 82:24
wondering 66:13
work 7:19 8:4,9,23
  9:7,14,19,23,24
  10:15 11:6,10,18
  12:4 26:17 36:21
  36:24 38:19,22
  42:14,15 80:25
worked 7:10,12,16
  7:17,25 9:15 12:11
working 10:2 42:21
  81:12,14
works 40:6
wouldn't 71:13 72:7
  72:11 73:11,13,16
  81:17
write 49:15
written 23:14,14,21
  24:13,20 25:4 31:5
  33:24 35:5

14

wrote 30:7	**1**	**3**	
	1 16:25 17:5,7,7	**3** 2:17	
X	**10:11** 47:7,9 51:25	**32** 91:12	
x 1:4,10 91:2,9	**10:15** 1:12	**37** 91:5	
	10016 1:19 2:11		
Y	**10604-3407** 2:17	**4**	
Y 4:3	**11:56** 88:15	**4** 91:4	
year 9:3 14:21 17:2	**112** 79:22 81:22	**40** 14:20 28:4	
17:6,8 29:18 30:7	**11225-5001** 2:5		
61:12 68:23	**12th** 34:17,20 35:2	**5**	
yearend 61:7 62:10	**14** 22:18 26:14	**5:30** 48:17	
years 7:2,12,16,18	**15** 25:15,22 26:14	**5:35** 46:4	
9:16,17 15:23	33:22 34:25 81:22	**5:38** 52:2	
17:12,12,13,15,16	**16th** 47:20 49:20	**501(c)3** 10:18	
17:20,24 18:20	**18** 32:20,21 91:11		
31:2,6 58:16	**180,000** 21:17	**6**	
yesterday 5:8,19	**1986** 6:8	**60** 91:6	
23:25 36:13 46:4	**1994** 6:7,9,18,20,20	**6955-004** 2:13	
47:8,11 48:18	**1995** 7:22,23,25		
49:11 52:3 58:10		**7**	
59:9	**2**	**70** 17:21	
York 1:3,19,19,22	**2** 1:18 2:10 6:3,13	**71** 2:4	
2:5,11,11,17 10:3	6:14	**73** 91:4	
10:11,14,21 11:7	**20th** 58:6		
11:10 12:5 37:11	**2000** 8:13,18	**8**	
37:20,25 38:22,25	**2002** 9:18	**80** 17:21	
40:22 42:21,23,24	**2004** 9:18		
43:4 80:10,14 90:3	**2005** 11:17 17:4,11	**9**	
90:4,7,8	78:4,5	**95** 8:6	
	2006 17:4,11 60:7	**98** 8:7	
$	81:23		
$108,000 28:8	**2007** 12:17 23:23		
$180,000 20:2,25	34:17,20 35:2		
21:18 24:17	**2009** 1:11 89:12,22		
$29,000 44:8	90:18 92:3,22		
$3 70:19	**21** 12:11 79:16		
$34,000 28:8	**21-page** 49:15 53:22		
$5,000 28:5 29:10	**22** 1:11 92:3		
$7 69:21,22 70:20	**22nd** 89:11		
	23 91:16		
0	**24-hour** 54:25		
0 3:21 91:14,17	**28th** 90:18		
01439.00148 2:19	**29** 23:23		
08-CV-5648(HB)	**29,000** 77:25		
1:7			